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**To:** [Scoping\\_Delta\\_Plan@Delta\\_Council](mailto:Scoping_Delta_Plan@Delta_Council)  
**Subject:** delta plan NOP scoping session comments for the Delta Plan DEIR  
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**Honorable Delta Stewardship Council Members,**

RE: Notice of Preparation Scoping Session for the Propose Draft Environmental Impact Report for the Proposed Delta Plan Public Comments

My name is Paul Choisser. I am a Concord resident, owner of PAC Environmental and Urban Land Use Planning Consulting Services, a Delta boater and a Delta fisherman. I spoke at the January 20, 2011 Delta Plan Notice of Preparation (NOP) Scoping Session for the Propose Draft Environmental Impact Report for the Delta Plan at a meeting held in Concord, CA on that date. I wanted to follow up with this written correspondence to clarify, memorialize and perhaps expand on those comments. In my comments during the Scoping Session held in Concord and in this correspondence I wanted to segregate what I felt was absent and/or lacking in the "Potential Environmental Effects of the Proposed Project and Potential Alternatives" of the NOP from my general public comments. This is the purpose of the scoping session, to identify what needs to be studied and included in the DEIR considerations obviously. In this letter I will only comment on what I believe needs to be included, that is, the issues that need to be examined or studied in the Draft Environmental Impact Report (DEIR) and some of the interpretive regulatory background which pertains to some additional comments. I will, at a later time, as time allows, submit an additional bit of correspondence which includes some "Public Comments" regarding some issues and concepts regarding the ecological/environmental health of the Delta and adjacent interdependent systems and the rhetorical philosophical perspective for understanding the legal framework. I understand that I cannot be nor would you want me to attempt to be comprehensive in my comments on these additional matters.

As far as the State mandated objective of "Coequal" goals for the Delta is concerned, after reviewing all of the publications including the legislative mandates provided to the public at that Concord meeting it became readily apparent to me that; **1) "Coequal"** does not mean equal distribution of the Delta's and therefore Northern California 's water resources with the entire State of California . In fact, the objectives, as identified in the brochures and legislative mandate, appear to be described for the Delta Plan project objectives under Section 85054 as **"protecting, restoring, and enhancing the Delta ecosystem"** and I'll restate and paraphrase that here. They are to re-establish, restore and develop a program to protect the ecological habitat values of the Delta; **2) Secondly**, the under the "coequal" goals of the Delta Plan are those of, **"providing a more reliable water supply system for California "**. While these objectives may appear to be inconsistent they are not necessarily incompatible. **3) The third element of this "Holy Trinity"** that makes brings them together is that it is the policy of the State Delta Plan objectives under Section 85021 to **"reduce reliance on the Delta in meeting California's future water supply needs through a statewide strategy of investing in improved regional supplies, conservation and water use efficiency"**. (Although this component is not evident on p.34, under PART 4, Comprehensive Delta Planning, Chapter 1, The Delta Plan, and therefore does not appear to be proposed to be codified within the Delta Plan). I believe that the failure to codify and/or re-express this policy and objective in the Delta Plan may represent a dichotomy in Public Policy if not an inconsistency with the Legislated Mandate creating the requirement for the Delta Plan. The failure to re-express the policy may represent an incongruity and/or inconsistency in or between the two documents and could possibly provide for a legal vulnerability to the Delta Plan. It will need to be addressed and/or rectified in yet another section of the DEIR (although its full ramifications and binding adherence to its principals is not fully evident in the legislation as I reviewed it). That section may be entitled, for lack of a better name at this point, "Legal Framework". and I note here that this inconsistency could be viewed as an environmental impact. The cognitive dissonance it can create and may represent can have a de facto stressful if not outright lethal effect (negative impact) on the

human intellect and psyche and therefore possibly considered to degrade human health and welfare. It therefore should be addressed in a Hazardous Materials Section. While being facetious here, I do want to use this example to emphasize the dis-coordinate cross-section of the elements of the legislation within which we are attempting to navigate in the implementation of its' requirements to create the Delta Plan. My deliberations here should be taken with a grain of salt water in our attempts to execute the CEQA requirements of the State code.

Now on to more mundane but perhaps prosaic deliberations. The two most conspicuous and probably therefore most elemental components of the Delta Plan are encapsulated and codified in the description of the term "Coequal" within the documents. These are those of **"protecting, restoring and enhancing the Delta ecosystem"** and **"providing a more reliable water supply system for California"**

**A)** Conspicuously absent in the descriptions of the potential impacts associated with the achieving the provisions of these goals that should be addressed in the DEIR and should be examined in terms of an inter-connectivity of the following elements of the DEIR; those of Biology, Economics, Hydrology.

Our first priority to re-establish, restore and develop a program to protect the ecological habitat values and distributions of indigenous biotic resources and zoological populations. of bay/delta estuary are the establishment of baseline populations of inhabitants should be considered before there is any discussion of plans for diverting from, transferring and/or the exporting anymore water from that Delta system. Baseline studies should be established for the current state of the health of that ecosystem including the existing level of water exports and what any further exports are going to do to the viability and health of that ecosystem.

Through this scoping session process and after an examination of the document which indicated what impacts should be studied and considered in the NOP for the Draft Environmental Impact Report, it became readily apparent to me that the NOP was insufficient in describing several basic concepts of the Bay Delta estuary dynamics, particularly in Biology, Economics, and Hydrology, and an additional section to the Biological resources section, one added pertaining to Marine Fisheries, as they all relate to each other and as they relate to part of the Secondary Planning Area, that of San Francisco Bay. What was perhaps alluded to in the document but not specifically described, as "habitats that could occur in areas outside of the Delta that could be affected by the Delta Plan", would involve determining what the hydrological forces/pressures (or otherwise known as the "head") of fresh water is as it passes through and leaves the Delta and traverses through the Carquinez Straights. Where the fresh water of the Delta meets the salt water of San Francisco Bay (the "Bay"), because salt water is more dense than fresh water, the fresh water floats over the salt water. This is important. Because of this configuration the forces of the Delta freshwater and the interface with the Bay salt water forms an underwater "dam" to the opposing intruding salt water forces. This would otherwise bring about a saltwater intrusion from the open Pacific Ocean eastward through San Francisco Bay into the Delta. This "dam" results in what is known as the "null zone" or "mixing zone" interface of hydrologic tension between the Delta's fresh water and the Bay's salt water within or about which exist nurseries for various zoological species, especially marine species, but most importantly the California Dungeness Crab (Cancer magister). After they go out to sea and mature they release larvae in the Gulf of the Faralons. The crab larvae mature to juvenile state and subsequently, most juveniles re-enter the San Francisco Bay and migrate upstream to brackish water to use it as a nursery. Apparently such juveniles are generally found at salinities of 15 to 25 ppt. As fresh water outflow increases in the winter and salinities decrease the juvenile crab population moves downstream and no Dungeness Crab populations are found upstream of San Pablo Bay. For years and during late summer and fall when the fresh water flow is decreased the populations move upstream and the crab populations are found in both San Pablo Bay and Suisun Bay/Marsh. Reductions in hydrological head cause by additional draw off of water resources from the Delta could result in a migration of the null zone eastward or perhaps a reduction or even elimination of the California Dungeness Crab and other nurseries within or about that null zone. This could not only have consequences for biological/ecological systems but consequences for the human economies/markets associated with industries of harvesting such species. Since the Bay/Delta has changed considerably, past data may

not be adequate to understand current and future conditions. All of this is required to be studied and considered in the Draft Environmental Impact Report.

To put it simply, if the State still wants to allow some new water transfers across the Delta via a new version of the peripheral canal engineered as a siphon, huge plumbing project or underground tunnels around, through or under the Delta, the other species outside of those living in or have part of their life cycle in the Delta, that I am pointing to, that such a diversion could effect do not take any form of residence in the Delta. The Dungeness Crab nursery in the Bay/Delta interface which is dependent on the fresh water pressure (head) holds back the salt water intrusion from the Bay into the Delta. At that point of interface, called the null zone or mixing zone where denser salt water is ridden over and dammed by fresh water is where the crab nursery begins. It's the largest Dungeness Crab nursery on the west coast. If fresh water is diverted from or otherwise sent out of the delta it draws away from the hydrologic head allowing the salt water/fresh water interface to either migrate eastward or just completely disintegrate. This could or would have disastrous consequences for the Dungeness Crab nursery, therefore the total population and the food chain predators dependent on it and also the human industry that is dependent on harvesting from it.

**B)** Conspicuously absent in the descriptions of the potential impacts associated with the goal of "providing a more reliable water supply system for California " are the following issues. In attempting to provide a more reliable water supply system for California , California State Water Code Section 85020 (f) indicates, the goals sub-goals and policy objectives to "improve the water conveyance system and expand statewide water storage". Therefore the impacts associated with obtaining these objectives, especially expanding statewide water storage, the following sections of the DEIR should identify potential impacts early on in the process, even if not in a substantive and quantifiable manner, at least descriptively.

This could have effects that should be considered under the following sections of the DEIR; Aesthetics, Agriculture, Air Quality, Biological Resources, Cultural Resources, Economics, Energy resources, Geology, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use and Land Use Planning, Mineral Resources, Noise and Vibration, Paleontological Resources, Population, Employment and Housing, Recreation, Soils, Seismicity, Transportation and Traffic, Utilities and Public Services and the consequent "growth inducing impacts".

"Coequally", to the goal of "protecting, restoring and enhancing the Delta ecosystem" is the goal of "providing a more reliable water supply system for California ". In attempting to doing so the California State Water Code Section 85020 (f) indicates, the goals sub-goals and policy objectives to "improve the water conveyance system and expand statewide water storage". Because this is a program EIR (DEIR) some of the potential environmental impacts of attempting to achieve those objectives and they should at this point be identified in the DEIR. They could include additional water impoundments throughout the State which could have the potential negative environmental impacts of eliminating terrestrial habitat function, value and distribution. They could create potential physical land use hazards due to earthquake fault rupture, impoundment (dam) failure, sloshing of water held behind the impoundment feature (the dam), loss of productive farmland, loss of potential residential property and therefore a potential contribution to the loss of availability of and/or actual new housing, and/or commercial/retail/light industrial/institutional land uses therefore the additional potential loss of property values and tax revenues, impacts to aesthetics, cultural resources, economics, energy resources, geology, soils, seismicity, traffic, noise and vibration.

Nothing in the scoping session documents identifies the concepts that are inherent in the Federal Clean Water act which was determined to be dependent on the need to maintain open and clear navigable waters. The concept of maintaining openly navigable waters is a concept that should also be addressed and considered in regard to potential environmental impacts or implications associated with any of the proposed alternative Delta Plans.

I hope my comments are of assistance to the process and will prove to be helpful and useful. I wish to

Thank you for the opportunity to participate in the scoping session NOP comments on the DEIR for the proposed Delta Plan alternatives and to address you on these important matters.

**Sincerely,**

**Paul Choisser**

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